

§ 760.812

7 CFR Ch. VII (1–1–16 Edition)

when there is supporting data from NASS or other sources approved by FSA that show there is a significant difference in yield or value based on a distinct and separate end use of the crop. Despite potential differences in yield or values, separate rates or yields will not be established for crops with different cultural practices, such as those grown organically or hydroponically.

(d) Production from all end uses of a multi-use crop or all secondary uses for multiple market crops will be calculated separately and summarized together.

(e) Each eligible participant's share of a disaster payment will be based on the participant's ownership entitlement share of the crop or crop proceeds, or, if no crop was produced, the share of the crop the participant would have received if the crop had been produced. If the participant has no ownership share of the crop, the participant is ineligible for assistance under this part.

(f) When calculating a payment for a unit loss:

(1) An unharvested payment factor will be applied to crop acreage planted but not harvested;

(2) A prevented planting factor will be applied to any prevented planted acreage eligible for payment; and

(3) Unharvested payment factors may be adjusted if costs normally associated with growing the crop are not incurred.

§ 760.812 Production losses; participant responsibility.

(a) Where available and determined accurate by FSA, RMA loss records will be used for insured crops.

(b) If RMA loss records are not available, or if the FSA county committee determines the RMA loss records are inaccurate or incomplete, or if the FSA county committee makes inquiry, participants are responsible for:

(1) Retaining or providing, when required, the best verifiable or reliable production records available for the crop;

(2) Summarizing all the production evidence;

(3) Accounting for the total amount of unit production for the crop, whether

or not records reflect this production;

(4) Providing the information in a manner that can be easily understood by the county committee; and

(5) Providing supporting documentation if the county committee has reason to question the damaging weather event or question whether all production has been accounted for.

(c) In determining production under this section, the participant must supply verifiable or reliable production records to substantiate production to the county committee. If the eligible crop was sold or otherwise disposed of through commercial channels, production records include: commercial receipts; settlement sheets; warehouse ledger sheets; load summaries; or appraisal information from a loss adjuster acceptable to FSA. If the eligible crop was farm-stored, sold, fed to livestock, or disposed of in means other than commercial channels, production records for these purposes include: truck scale tickets; appraisal information from a loss adjuster acceptable to FSA; contemporaneous diaries; or other documentary evidence, such as contemporaneous measurements.

(d) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

§ 760.813 Determination of production.

(a) Production under this part includes all harvested production, unharvested appraised production, and assigned production for the total planted acreage of the crop on the unit.

(b) The harvested production of eligible crop acreage harvested more than once in a crop year includes the total harvested production from all these harvests.

(c) If a crop is appraised and subsequently harvested as the intended use, the actual harvested production must be taken into account to determine benefits. FSA will analyze and determine whether a participant's evidence of actual production represents all that could or would have been harvested.

(d) For all crops eligible for loan deficiency payments or marketing assistance loans with an intended use of

grain but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped, production will be adjusted based on a whole grain equivalent as established by FSA.

(e) For crops with an established yield and market price for multiple intended uses, a value will be calculated by FSA with respect to the intended use or uses for disaster purposes based on historical production and acreage evidence provided by the participant and FSA will determine the eligible acres for each use.

(f) For crops sold in a market that is not a recognized market for the crop with no established county average yield and average market price, 42 percent of the salvage value received will be deducted from the disaster payment.

(g) If a participant does not receive compensation based upon the quantity of the commodity delivered to a purchaser, but has an agreement or contract for guaranteed payment for production, the determination of the production will be the greater of the actual production or the guaranteed payment converted to production as determined by FSA.

(h) Production that is commingled between units before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective unit by FSA. Commingled production may be attributed to the applicable unit, if the participant made the unit production of a commodity a matter of record before commingling and does any of the following, as applicable:

(1) Provides copies of verifiable documents showing that production of the commodity was purchased, acquired, or otherwise obtained from beyond the unit;

(2) Had the production measured in a manner acceptable to the county committee; or

(3) Had the current year's production appraised in a manner acceptable to the county committee.

(i) The county committee will assign production for the unit when the county committee determines that:

(1) The participant has failed to provide adequate and acceptable production records;

(2) The loss to the crop is because of a disaster condition not covered by this part, or circumstances other than natural disaster, and there has not otherwise been an accounting of this ineligible cause of loss;

(3) The participant carries out a practice, such as multiple cropping, that generally results in lower yields than the established historic yields;

(4) The participant has a contract to receive a guaranteed payment for all or a portion of the crop;

(5) A crop was late-planted;

(6) Unharvested acreage was not timely appraised; or

(7) Other appropriate causes exist for such assignment as determined by the Deputy Administrator.

(j) For peanuts, the actual production is all peanuts harvested for nuts, regardless of their disposition or use, as adjusted for low quality.

(k) For tobacco, the actual production is the sum of the tobacco: marketed or available to be marketed; destroyed after harvest; and produced but unharvested, as determined by an appraisal.

\$760.814 Calculation of acreage for crop losses other than prevented planted.

(a) Payment acreage of a crop is limited to the lesser of insured acreage or NAP covered acreage of the crop, as applicable, or actual acreage of the crop planted for harvest.

(b) In cases where there is a repeat crop or a multiple planted crop in more than one planting period, or if there is multiple cropped acreage meeting criteria established in paragraph (c) or (d) of this section, each of these crops may be considered separate crops if the county committee determines that all of the following conditions are met:

(1) Were planted with the intent to harvest;

(2) Were planted within the normal planting period for that crop;

(3) Meet all other eligibility provisions of this part including good farming practices; and

(4) Could reach maturity if each planting was harvested or would have been harvested.